

From: jem@hpesjem.fc.hp.com@inetgw
To: Microsoft ATR,jem@fc.hp.com@inetgw
Date: 1/9/02 11:20am
Subject: Proposed Microsoft Settlement

To whom it may concern:

I work in the tech industry designing CPU's. I have been extensively involved in the use and design of computer hardware and software for years. It is probably also worth noting that I do not work for a company that competes with Microsoft.

I would like to state my strong opposition to the proposed Microsoft settlement based on the following grounds:

- 1) The proposed settlement does not forceably correct the problem of illegal anti-competitive behavior which the courts ruled Microsoft has engaged in.
- 2) The proposed settlement does not even give Microsoft much of an incentive to correct the illegal anti-competitive behavior.
- 3) This anti-competitive behavior has caused and continues to cause enormous harm to consumers and the economy.

The proposed settlement does not forceably correct the problem of illegal anti-competitive behavior which the courts ruled Microsoft has engaged in. The settlement only asks for some very limited behavior modification and does very little to ensure that even these limited behavior modifications can be enforced. Microsoft's history clearly demonstrates it's ability to be creative in it's anti-competitive behavior. Microsoft's history further demonstrates it's willingness to break laws and violate agreements if it thinks it can get away with it. This case, which is about violation of a previous consent decree and of our nations anti-trust laws, clearly demonstrates this. Any successful remedy must be enforceable and comprehensive.

The proposed settlement does not even give Microsoft much of an incentive to correct the illegal anti-competitive behavior. Take Microsoft's anti-competitive behavior in the browser market, for example. Microsoft behaved in an illegal, anti-competitive manner because it was concerned that the browser platform could threaten or replace it's business and consumer desktop software platform monopoly. It's behavior made sure that this threat was eliminated. The proposed settlement would slap Microsoft with a few minor unenforceable behavior restrictions. If you set aside ethics and morality, that looks like a pretty good return on investment. This is not lost on Microsoft.

The anti-competitive behavior has caused and continues to cause enormous harm to consumers and the economy. This is one of the least understood and most important aspects of this case. Clearly, the government wants to protect the

economy. Protecting the economy is a noble goal, but they are misguided in trying to do so by protecting Microsoft. The fundamental driving force of capitalism is competition. Microsoft would argue that it is only being punished for being a ruthless competitor. However, throughout the history of our country, there have been many examples of monopolistic, anti-competitive behavior causing harm to the economy. Many times and in many ways, the government has stepped in with rules which provide a level competitive playing field on which competition may flourish. There are rules against cornering commodities markets. There are accounting rules. There are truth in advertising rules. There are rules against fraud. There are rules against selling defective products. - And, there are rules against leveraging a monopoly to eliminate competition. Breaking any of these rules could be portrayed as just being a ruthless competitor, but our economy will not function very well at all if these rules are not enforced. I could go on and on giving examples of how Microsoft's illegal anti-competitive behavior has harmed the competition, but any and all examples can be disputed (because we can't replay history) if one does not believe that leveraging a monopoly to thwart competition fundamentally harms consumers and the economy. If one does believe this, then examples are not hard to come by. (Although understanding the examples usually requires a fair amount of technical competence and understanding of the industry - always a difficult aspect of this case.)

Sincerely,

James McCormick
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P.S. The opinions expressed in this letter are mine alone. They do not in any way represent any positions taken by my employer.